

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATRICIA BERNE,

No. C-07-0505 MJJ (MEJ)

Plaintiff,

**ORDER RE SETTLEMENT
CONFERENCE**

vs.

CITY OF OAKLAND, et al.,

Defendants.

Due to the Court's unavailability, the settlement conference originally set for November 2, 2007 is hereby continued to December 12, 2007. Although the Court will be on criminal duty the entire month of December, and generally does not conduct settlement conferences during this time, the Court will set a special Settlement Conference for December 12, 2007, at 10:00 a.m., in the Court's chambers. Participants are to come to the security door on the 15th floor and use the security phone for access.

The Court has conferred with Judge Jenkins regarding discovery in this matter, and the court will stay all discovery until after the December 12 settlement conference.

The Court has reviewed copies of the correspondence between the attorneys for the parties in this case regarding the upcoming settlement conference.

Plaintiff asserts that there would be a conflict if he were to negotiate damages, attorney's fees, and costs prior to negotiating the access provisions in this case. However the Court finds no

1 conflict in simply providing the information regarding costs, fees and damages. On the contrary,
2 given the Plaintiff's stated concerns regarding undue delay, if the parties are able to resolve the
3 issues surrounding access, they can then proceed to resolving the issues of attorney's fees, costs and
4 damages. This measure will help resolve this matter without further undue and unnecessary delay.

5 Plaintiff has requested that a member of the Oakland City Council ("City Council" or
6 Council") be present at the settlement conference. The Court finds it more productive for Defendant
7 to present the Plaintiff's information regarding costs and damages to the entire City Council, and at
8 the same time, seek the Council's remedies and proposals regarding the ramp. Thus, on the date of
9 the settlement conference, Defendant's attorney should be prepared to discuss the City Council's
10 proposed remedies, including the funding of the ramp. If by the date of the settlement conference,
11 Defendant's attorney is unable to obtain a proposal from the City Council, the Court finds a member
12 of the City Council should attend the settlement conference to respond to questions any the court has
13 regarding the potential resolution of the ramp issues.

14 There Court therefore ORDERS as follows:

15 Plaintiff's attorney shall, by Tuesday, November 12, 2007, deliver his estimate of damages,
16 attorney's fees, and costs to Defendant's attorney. Prior to the settlement conference, Defendant's
17 attorney shall present Plaintiff's estimate of attorney's fees, costs and damages to the City Council
18 and shall obtain from the Council a proposal regarding the resolution of this matter, including the
19 funding of the ramp. The Defendant's attorney shall be prepared to discuss any proposal of the
20 Council at the December 12, 2007 settlement conference. However, if the Defendant's attorney is
21 unable to obtain a proposal from the Council before December 12, 2007, a member of the Council
22 shall attend the settlement conference to respond to any inquiries by the court.

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24 **IT IS SO ORDERED.**

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26 Dated: November 2, 2007

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MARIA-ELENA JAMES
United States Magistrate Judge

United States District Court
For the Northern District of California

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